REMARKS

This is intended as a full and complete response to the Office Action dated July 17, 2006, having a shortened statutory period for response set to expire on October 17, 2006. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-42 are pending in the application. Claims 1, 4-20 and 23-42 remain pending following entry of this response. Claims 1, 7, 15, 20 and 23-42 have been amended. Claims 2, 3, 21 and 22 have been cancelled. Applicants submit that the amendments do not introduce new matter.

Claim Rejections - 35 U.S.C. § 101

Claims 1-42 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

While Applicants' disagree with the Examiner's basis for the present rejection, Applicants' have nevertheless made amendments in order to move prosecution forward. Specifically, claims 1-19 have been amended to recite a computer-implemented method. In addition, scheduling the execution of queries on the basis of predetermined query eligibility criteria and a timeframe is clearly a useful, concrete and tangible result. Regarding claims 20-38 the claims have been amended as suggested by the Examiner to recite a "storage" medium. Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 1-7, 10-12, 15-17, 20-26, 29-31, 34-36 and 39-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Snodgrass et al* (U.S. PG Pub No. 2004/0117359), in view of *Rubert et al.* (U.S. Patent No. 6,366,915).

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three

basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143. The present rejection fails to establish at least the first criterion in that *Rupert* teaches away from the suggested combination, and the third criterion, because neither reference teaches or suggest all the claim limitations.

As pointed out to the Examiner previously, *Snodgrass* is directed to <u>how</u> to execute a database query and fails to disclose aspects of scheduling <u>when</u> to execute a database query. More specifically, *Snodgrass* is directed to query optimization which involves the creation of query plans and the selection of the best query plan, considering various cost factors. See, paragraph 0028. <u>It is well known to those skilled in the art that a query execution plan (QEP) does not specify a timeframe for executing a query; nor does a QEP specify query eligibility criteria.</u> In fact, such attributes are non-sensical in the context of QEPs since QEPs are <u>generated for specific queries</u> and, therefore, are <u>not used to identify specific queries</u> on the basis of criteria contained in the QEP. Thus, a query execution plan is not directed to scheduling when a database query executes, but rather how a database query is executed. Therefore, *Snodgrass* does not teach, show or suggest a query execution schedule that defines query eligibility criteria and a timeframe for executing queries satisfying the criteria, nor does *Snodgrass* scheduling a time to execute a received query on the basis of the timeframe the query execution schedule. In this regard, Applicants point out that the Examiner's rejection is defective in that the Examiner suggests *Snodgrass* teaches "scheduling a time to execute the received query on the basis of the at least one query execution schedule" but then concedes that *Snodgrass* does not teach "scheduling a time to execute the query". See, Office Action, page 5. This position appears irreconcilable. In any case, for the reasons given above the Applicants believe the claims are allowable and respectfully request that the claims be allowed.

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Regarding *Rubert* the Examiner argues that "scheduling a time to execute the query" is taught at column 4, lines 2-7. However, the reference specifically teaches that a user schedules when a query executes. See, column 6, lines 24-30 describing how a user schedules query execution by clicking the "Schedule Query Execution" button shown in the user interface of Figure 1. Accordingly, neither reference teaches, shows or suggests a query execution schedule that defines query eligibility criteria and a timeframe for executing queries satisfying the criteria, or scheduling a time to execute a received query on the basis of the timeframe the query execution schedule. And *Rubert* specifically teaches away from such an approach, in that the user must initiate query scheduling for each query individually (rather than scheduling execution times of queries on the basis of a predefined scheduling object, i.e., the "query execution schedule", that defines query eligibility criteria and a timeframe for executing queries satisfying the criteria). Therefore, Applicants believe the claims are allowable and respectfully request that the claims be allowed.

Claims 8-9, 13-14, 18-19, 27-28, 32-33 and 37-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Snodgrass et al* (U.S. PG Pub No. 2004/0117359), in view of *Rubert et al.* (U.S. Patent No. 6,366,915) as applied to claims 1-7, 10-12, 15-17, 20-26, 29-31, 34-36 and 39-42 above further in view of *Lomet et al.* (U.S. Paten No. 5,212,788).

Applicants respectfully traverse this rejection. For the reasons given above, *Snodgrass* and *Rubert*, alone or in combination, do not teach, show or suggest the claim limitations. Therefore, the combination of *Snodgrass, Rubert,* and *Lomet* also do not teach, show or suggest the claim limitations. Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

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Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

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